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25 **UNITED STATES DISTRICT COURT**
26 **NORTHERN DISTRICT OF CALIFORNIA**

27 **SAN JOSE DIVISION**

28 KEVIN EMBRY, an individual, on behalf of
himself, the general public and those similarly
situated

CASE NO. CV-09-01808 (JW)

Plaintiff,
v.
ACER AMERICA CORPORATION; AND
DOES 1 THROUGH 50
Defendants

**AMENDED STIPULATION TO
CONTINUE CLASS CERTIFICATION
DISCOVERY CUTOFF AND BRIEFING
SCHEDULE**

1 TO THE COURT:

2 WHEREAS, the Court has set the following schedule for class certification: discovery
3 cutoff on December 4, 2009; motion due January 18, 2010; opposition due February 1, 2010;
4 reply due February 8, 2010; hearing February 22, 2010.

5 WHEREAS, Plaintiff served interrogatories and requests for production on August 27,
6 2009;

7 WHEREAS, Defendant served objections and responses to the discovery on October 1,
8 2009, which included agreement to produce certain documents;

9 WHEREAS, the parties are continuing to meet and confer about Defendants' objections
10 and the scope and timing of production, which has not yet commenced;

11 WHEREAS, Plaintiff contends that more time is required to resolve the discovery disputes
12 (including, if necessary, motion practice before the Magistrate with possible review by this
13 Court), obtain and review documents, and take depositions;

14 WHEREAS, the parties also have been discussing the possibility of and structure for
15 settlement and it is possible that a settlement might be reached in advance of a class certification
16 motion; and

17 WHEREAS, the due date for the motion for class certification is Martin Luther King, Jr.
18 Day, a Court holiday;

19 NOW THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE that, if the
20 Court approves, the dates for class certification, including the discovery cut-off date, should be
21 extended for approximately 90 days, so that the new dates will be as follows:

22 Discovery Cutoff: March 5, 2010

23 Motion Due: March 22, 2010

24 Opposition Due: April 5, 2010

25 Reply Due: **April 9, 2010**

26 Hearing: April 26, 2010

27 ///

28 ///

1 IT IS SO STIPULATED.

2 DATED: October 29, 2009

GUTRIDE SAFIER LLP

4 By: /s/ Adam Gutride _____
5 Adam Gutride
6 Seth A. Safier
7 Attorneys for Plaintiff Kevin Embry

8 DATED: October 29, 2009

9 QUINN EMANUEL URQUHART OLIVER &
10 HEDGES, LLP

11 By: /s/ Stan Karas _____
12 Jeffery D. McFarland
13 Stan Karas
14 A.J. Bedel
15 Attorneys for Defendant Acer America
16 Corporation

17 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED **AS MODIFIED ABOVE.**

18 DATED: December 8, 2009

19 _____
20 Honorable James Ware
21 United States District Court Judge
22 _____
23 _____
24 _____
25 _____
26 _____
27 _____
28 _____